

Application No. 10/668,781

REMARKS

This is a response to the Office Action mailed April 18, 2006.

- Claims 38 and 40-43 are pending in the application.
- Claims 38 and 40-43 have been rejected by the Examiner.
- Claims 1-37, 39, and 44-64 have been previously canceled.

Double Patenting

Claims 38 and 40-43 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-31 of U.S. Patent No. 6,656,216. Applicants have enclosed a Terminal Disclaimer. Applicants respectfully request removal of this rejection.

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected Claims 38 and 40-43 under 35 U.S.C. 103(a) as being unpatentable over Strecker (US 6,645,241) in view of Scott et al. (US 5,383,928). Applicant respectfully disagrees.

The Examiner states with respect to claims 38, 40, 41, and 43 that “Strecker does not disclose the polymer cuffs including a plurality of strips and the stent being made from material have a modulus of elasticity higher than the biodegradable polymer of the cuffs.”

The Examiner further states that “Scott et al. disclose a stent-graft for delivering a drug into a body lumen where the stent has graft/cuffs that cover the entire stent or at the ends of the stent and suggest that the graft/cuffs can be made as sleeve, a plurality of strips.” The Examiner concludes that “it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the stent of Strecker from well known material in the art such as

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superelastic alloy in order enhance the placement of the stent.” The Examiner claims that it is well known in the art to make a stent from superelastic alloy having a modulus of elasticity higher than the “biodegradable polymer as disclosed in the Strecker reference.” The Examiner further proposes a modification of the Strecker endoprosthesis by substituting the “plurality of strips” of Scott et al. for the “cuffs” of Strecker.

Strecker teaches at col. 6, lines 5-10 a “wall 21 of the endoprosthesis 20 illustrated in FIG. 4 has inner and outer layers 22 and 23 as well as multiple layer cuffs 25 and 26 of a biodegradable wrapping material at each end.”

Claim 38 recites “a plurality of polymeric strips circumferentially spaced from each other around the body of the stent, ... wherein the plurality of strips have a modulus of elasticity lower than the body of the stent, and wherein the plurality of polymeric strips are in contact with the body of the stent.” As described and shown in FIG. 4 of Strecker, the cuffs are disposed on the biodegradable wrapping material or lining (inner and outer layers 22 and 23) and not on “wall 21.” Strecker does not teach or suggest that the cuffs 25 and 26 have a lower modulus of elasticity than outer layers 22 and 23. Therefore, Strecker does not teach or suggest the above-mentioned limitation of claim 38.

The Examiner’s proposal to substitute the “plurality of strips” of Scott et al. for the “cuffs” of Strecker does not cure the deficiency of Strecker with respect to claim 38. In addition, the Examiner’s proposal to make the stent of Strecker from a superelastic alloy does not cure the deficiency of Strecker with respect to claim 38.

Therefore, Claim 38 is patentably allowable. Claims 40-43 depend from Claim 38 and are allowable for at least the same reason that Claim 38 allowable. Applicant respectfully requests removal of the obviousness rejection of Claims 38 and 40-43.

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Since a prima facie case of obviousness has not been made out for any of the obviousness-rejected claims, as amended, applicant is under no duty to discuss the substance of the current obviousness-based rejections. But applicant traverses each of these rejections and does not acquiesce to them. Furthermore, applicant reserves the right to address the substance of each of these rejections in the future if a duty to do so arises.

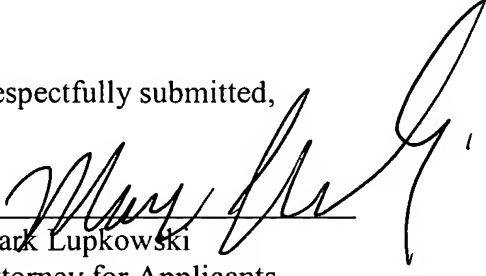
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CONCLUSION

Claims 38 and 40-43 are pending in this application. Applicant asserts that the claims are in condition for allowance. Allowance of the claims is respectfully requested. If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 954-0297.

Date: August 14, 2006
Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111
Telephone (415) 954-0200
Facsimile (415) 393-9887

Respectfully submitted,



Mark Lupkowski
Attorney for Applicants
Reg. No. 49,010